

**IN THE U.S. DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. THOMAS AND ST. JOHN**

<b>CHASE MALONE, individually and as the</b>	)	
<b>Assignee of certain rights of Kareem Boynes,</b>	)	
	)	<b>CASE NO. 3:22-CV-_____</b>
<b>Plaintiffs,</b>	)	
	)	<b>Super. Ct. Case No. ST-22-CV-269</b>
<b>v.</b>	)	
	)	
<b>INDEMNITY INSURANCE COMPANY OF</b>	)	
<b>NORTH AMERICA a/k/a “CHUBB”, RED</b>	)	
<b>HOSPITALITY &amp; LEISURE KEY WEST, LLC</b>	)	
<b>d/b/a SEEBAGO WATERSPORTS, and</b>	)	
<b>CERTAIN UNDERWRITERS AT LLOYDS OF</b>	)	
<b>LONDON CONSISTING OF THE SLIP</b>	)	
<b>LEADER, TALBERT UNDERWRITING</b>	)	
<b>LIMITED, HARDY SYNDICATE NUMBER</b>	)	
<b>382, HCC UNDERWRITING AGENCY LTD,</b>	)	
<b>AS WELL AS A LONDON MARKET</b>	)	
<b>ENTITY DESIGNATED LIRMA, ALL</b>	)	
<b>SUBSCRIBING TO POLICY</b>	)	
<b>B1079NML202535,</b>	)	
	)	
<b>Defendants.</b>	)	

**NOTICE OF REMOVAL**

Defendant Certain Underwriters at Lloyds of London consisting of the Slip Leader, Talbot Underwriting Ltd. (improperly named Talbert Underwriting Limited), Hardy Syndicate Number 382, HCC Underwriting Agency Ltd., as well as a London Market Entity Designated LIRMA, all subscribing to Policy B1079NML202535 (“Lloyds”), through undersigned counsel Duensing & Casner, hereby gives notice of removal of Superior Court Case No. ST-2022-CV-00269, *Chase Malone, et al. v. Indemnity Insurance Company of North America, et al.*, to the United States District Court of the Virgin Islands, Division of St. Croix/St. Thomas and St. John, pursuant to 28 U.S.C. §§ 1441, *et seq.* and 28 U.S.C. 1332. In support hereof, Lloyds states as follows:

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**A. Consent of All Defendants**

1. Pursuant to 28 U.S.C. § 1446(b)(2)(A), when a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action.
2. Although it has not yet been served in this case, Co-Defendant Indemnity Insurance Company of North America a/k/a “Chubb” (“Chubb”) has consented to removal.
3. Although it has not yet been served in this case, nominal Co-Defendant Red Hospitality & Leisure Key West, LLC, d/b/a Sebago Watersports (“Red Hospitality”) has consented to removal.

**B. Timeliness of Removal**

4. On July 28, 2022, Plaintiff Chase Malone, individually and as the assignee of certain rights of Kareem Boynes (“Plaintiff”), filed a Complaint in the Superior Court as Case No. SX-2022-CV-00276, *Chase Malone, et al. v. Indemnity Insurance Company of North America, et al.* (the “Complaint”).<sup>1</sup>
5. The Summons in the action were issued on July 29, 2022.
6. No Defendants in this action have been properly served with the Summons and Complaint.
7. Lloyds received correspondence dated August 8, 2022, in which Plaintiff’s Counsel first advised Lloyds of the Summons and Complaint initiating this lawsuit.

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<sup>1</sup> See all Pleadings filed in Superior Court Case No. ST-2022-CV-00269, Chase Malone, et al. v. Indemnity Insurance Company of North America, et al. attached hereto as **Exhibit 1**.

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8. Accordingly, Defendant timely files this Notice of Removal within thirty (30) days of first notice and receipt of the Summons and Complaint pursuant to 28 U.S.C. § 1446(b). *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

**C. Venue**

9. Venue is proper in the District Court of the Virgin Islands, Division of St. Thomas and St. John, because it is the “district and division embracing the place where such action is pending.” *See* 28 U.S.C. § 1441(a).

**D. Grounds for Removal: Diversity**

10. This action is properly removable under 28 U.S.C. § 1441(b). The District Court of the Virgin Islands has original jurisdiction of this case pursuant to 28 U.S.C. §1332(a)(1), which provides: “(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States...”

**i. Complete Diversity of the Parties**

11. Upon information and belief, Chase Malone is a resident and citizen of Florida.
12. Upon information and belief, Kareem Boynes is a resident and citizen of the Virgin Islands.
13. Defendant Lloyds consists of four subscribers, all of which are incorporated in England and Wales with their principal places of business in London, England, and therefore are foreign citizens for purposes of diversity jurisdiction.
14. Upon information and belief, Chubb is a Pennsylvania entity with its principal place of business in Pennsylvania.

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15. Red Hospitality is a nominal defendant who was improperly joined to this matter and whose citizenship should be ignored in assessing diversity.

**ii. Amount in Controversy**

16. In the Complaint, Plaintiff Chase Malone seeks an award in excess of One Million U.S. Dollars (\$1,000,000.00), through an assignment of rights agreement with Kareem Boynes, as well as punitive damages.

17. Based upon the allegations of Plaintiff's Complaint, Lloyds submits that the amount in controversy exceeds \$75,000 for purposes of diversity jurisdiction and removal. *See* 28 U.S.C. §§1446(c)(2)(A)(ii)-(B).

18. Accordingly, the case is properly removable under 28 U.S.C. § 1441(a).

**E. Notice to the Superior Court and the Parties**

19. The undersigned counsel certifies that a copy of this Notice of Removal shall be filed with the Clerk of the Superior Court of the Virgin Islands and served upon all parties as required by 28 U.S.C. § 1446(d).

**F. Preservation of all Defenses**

20. By removing this matter, Lloyds does not waive or intend to waive any defense, including, but not limited to, insufficiency of service of process, untimely service of process, personal jurisdiction, improper venue, failure to state a claim, or any other defense cognizable under the Rules of Civil Procedure or any other procedural rule or substantive law.

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**G. Conclusion**

WHEREFORE, Lloyds requests that the above-entitled action now pending in the Superior Court of the Virgin Islands, Division of St. Thomas and St. John be removed to this Court.

**LAW OFFICES OF DUENSING & CASNER**

Dated: August 26, 2022

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